



U.S. DEPARTMENT of STATE

Lesotho

Country Reports on Human Rights Practices - [2003](#)

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Lesotho is a constitutional monarchy with King Letsie III as Head of State. Under the Constitution, the King fills a ceremonial role, has no executive authority, and is proscribed from actively taking part in political initiatives. In May 2002, Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, was re-elected in free and fair elections. In the 2002 elections, the LCD won 79 of 80 constituency-based seats, and the opposition Lesotho Peoples Congress (LPC) won the remaining constituency seat; the 40 proportionally elected seats were divided among 9 opposition parties. The judiciary was independent in law and practice.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police Service (LPS), and the National Security Service (NSS). The Prime Minister is the Minister of Defense, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs. The LDF continued to be the subject of a national debate on the structure, size, and role of the armed forces. The NSS and the LPS also continued to undergo comprehensive restructuring. Civilian authorities maintained effective control of security forces. Some members of the security forces committed human rights abuses.

The country, which has a population of approximately 2.15 million, is landlocked and surrounded by South Africa. Approximately 13 percent of the adult male work force worked in mines in South Africa. Per capita GDP remained approximately \$400. State-owned enterprises predominated in the agro-industrial and agribusiness sectors, but private sector activity dominated in the small manufacturing and construction sectors. Under the traditional chieftainship structure, land use and tenure were controlled by the traditional chiefs and formally owned by the Kingdom as "crown lands"; however, land use decisions increasingly were transferred to locally elected bodies.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were unconfirmed allegations of torture by security forces and credible reports that the police at times used excessive force against detainees. Prison conditions were poor, and lengthy pretrial detention was a problem. There were long delays in trials. Domestic violence was common, and women's rights continued to be restricted severely in some areas. Societal discrimination against persons with disabilities was common. Some worker rights were restricted. Child labor was a problem in traditional agriculture and in the informal sector.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no political killings; however, police killed two persons participating in a labor demonstration during the year (see Section 6.b.).

The trials for the 25 members of the LDF accused of killing the Deputy Prime Minister in the 1994 palace coup resumed early in June. Of the 25 persons arrested, 7 were released because of lack of evidence, 1 died, and 17 were being tried at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution expressly prohibits such practices; however, there were allegations of torture by security forces and credible reports that the police at times used excessive force.

Police reportedly used torture during the May interrogation of Theko Lerotholi, a military officer who had been arrested in connection with a spate of robberies. Lerotholi subsequently was released.

On September 16, police arrested Malefa Mapheleba, a leader of the Basotho National Party (BNP), for suspected involvement in the escape of a fugitive from Central Prison. Mapheleba claimed that police subsequently tortured her in prison. There were unconfirmed reports that Mapheleba left the country after her release.

Prison conditions were poor, and facilities were overcrowded and in disrepair. Women were housed separately from men, and juveniles were housed separately from adults. Pretrial detainees often were held with convicted prisoners.

Prison regulations provide for visiting committees that were made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director, and generally were allowed to do so. The committee reports its findings to the prison director. The International Committee of the Red Cross, through its regional office in Botswana, monitored prison conditions in the country during visits in January and February.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Police corruption was a problem; however, the Government continued its reform efforts. During the year, the Minister of Home Affairs began a program to reform and retrain police; approximately 30 police officers were suspended, dismissed, or otherwise disciplined as a result. The Government also established a Police Independent Complaints Directorate staffed by former police personnel during the year.

Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Ministry of Justice and the nongovernmental community (NGO) maintained a few legal aid clinics. The law provides for granting bail, which the authorities granted regularly and generally fairly.

In June, Zwelakhe Mda, the president of the Law Society, was arrested for obstructing justice by "illegally obtaining evidence." He was the lead defense attorney for the individual accused of murdering the Prime Minister's son in January 2002 and a vocal critic of the government, particularly the Ministry of Justice. Mda was acquitted in October, due to testimony from crown witnesses that the court described as "overwhelmed with discrepancies, contradictions, and improbabilities."

Because of serious backlogs of court caseloads, pretrial detainees were a significant portion of the prison population, and pretrial remand could last months or even years.

The Constitution prohibits forced exile, and the Government did not use it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consisted of the Court of Appeal (which meets semi-annually), the High Court, magistrates courts, and customary or traditional courts, which existed largely in rural areas to administer customary law. The High Court also provided procedural and substantive guidance on matters of law and procedure to military tribunals; however, it did not participate in judgments.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which was composed of two judges from the High Court, one retired military officer with a legal background, and the registrar of the High Court.

The authorities generally respected court decisions and rulings. There was no trial by jury. Criminal trials normally were adjudicated by a single High Court judge who presided, with two assessors that served in an advisory capacity. In civil cases, judges normally heard cases alone. There was a large case backlog, which led to lengthy delays in trials (see Section 1.d.).

In civil courts, women and men were accorded equal rights; however, in traditional and customary courts certain rights and privileges accorded to men were denied to women (see Section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was binding legally. This system greatly disadvantaged women.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law does not fully protect citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provided police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant. There are some prohibitions against monitoring telephone conversations.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were several independent newspapers--including one controlled by the Roman Catholic Church, one controlled by the Lesotho Evangelical Church, and four English-language weeklies--that routinely criticized the Government. The official state-owned or state-controlled media consisted of one radio station, a 1½ hour daily newscast on a local television channel, and two weekly newspapers. All reflected official positions of the ruling party. There were five private radio stations, but no private local television station. South African and global satellite television and radio broadcasts were widely available.

In June, the High Court ordered that the assets of the independent Sesotho language radio station and newspaper MoAfrica be seized because the owner lost a defamation suit and was unable to pay the fine; the suit was brought by a member of Parliament. An anonymous benefactor paid the fine, and publication and broadcast resumed.

Although access to government information was incomplete, websites of government ministries, parastatals, and private organizations provided significant information.

Internet services were freely available from a number of private Internet service providers.

The Government did not restrict academic freedom. Although the Government owned and administered the country's only university, the academic staff represented the full political spectrum and was free to express its views.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. A public meeting, rally, or march required only advance notification. Political party meetings and rallies were held regularly and without hindrance from the Government. In addition to the LCD and the BNP, there were 16 smaller, registered political parties.

Police fired on demonstrators during the year, killing two persons and injuring others (see Section 6.b.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The majority of the members of the Government were Christians, which reflected the religious composition of the country.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government continued to cooperate with UNHCR and other humanitarian organizations in assisting refugees. The Government also has designated a Commissioner for Refugees. The Government provides protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Related to the Status of Refugees and its 1967 Protocol; however, the issue of temporary protection did not arise during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In the May 2002 elections, the LCD party won 79 of the 80 constituency-based seats, the opposition LPC party won the remaining constituency seat, and the 40 proportionally elected seats were divided among 9 opposition parties; Prime Minister Mosisili, the leader of the LCD party, was re-elected. Domestic and international observers concluded that the elections were free, fair, peaceful, lawful, and transparent. The opposition accepted the election results peacefully, and the BNP instituted several legal challenges to the elections, all of which were dismissed by year's end. The BNP has taken its seats in the National Assembly and participated in Parliamentary proceedings.

There were 14 women in the 120-member National Assembly and 12 women in the 33-member Senate. Four women were government ministers, and two women were assistant ministers. In June 2002, the Parliament unanimously re-elected the first female Speaker of the National Assembly, who remained in office at year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Language, Disability, or Social Status

The Constitution prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status, and the Government generally respected these prohibitions in practice; however, the Constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were restricted severely under the traditional chieftainship system.

Women

Domestic violence against women occurred frequently, and, although dependable statistics were not available, it was believed to be widespread. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Beatings and violence against women perpetrated by husbands or other male relatives occurred frequently; however, increasingly it was considered socially unacceptable behavior.

The law prohibits rape, which is punishable by a minimum sentence of 5 years' imprisonment, with no option for a fine. The law also prohibits sexual harassment; however, in most cases, it was difficult to prove. Prostitution is illegal and was a problem; police seldom prosecuted offenders.

Both law and custom under the traditional chieftainship system severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials have criticized publicly this customary practice. The tradition of paying a bride price (lobola) was common. Polygyny was practiced by a very small percentage of the population.

Women's rights organizations have taken a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funds efforts by women's groups to sensitize society to the status and rights of women.

Children

The Government devoted substantial resources to primary and secondary education. Education was not compulsory even at the primary levels, and a substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities in support of their family's welfare, or where families could not afford the costs associated with school attendance, such as fees for the purchase of uniforms, books, and materials. The problem of school nonattendance affected boys disproportionately more than girls. In traditional rural Basotho society, livestock herding by young boys frequently interfered with their school enrollment (see Section 6.d.). The Government began a program that provided free public education through the primary grades (1 through 6). The program covered the costs of school fees, books, and one meal per day in all schools in 1st grade. Expansion of the program to the fourth grade occurred during the year.

There was no pattern of societal abuse against children. However, familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children.

Child prostitution was a problem. Young girls, many of whom were orphans, reportedly moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the Government agreed that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. There is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

Persons with Disabilities

Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful; however, societal discrimination was common. The Government has not legislated or mandated accessibility to public buildings for persons with disabilities. The Minister of Justice, Human Rights, Rehabilitation, Law, and Constitutional Affairs is blind; he was appointed to this position in 2001.

National/Racial/Ethnic Minorities

Most citizens spoke a common language and shared common historical and cultural traditions. Small numbers of Asians (primarily ethnic Chinese and Indians) and South African whites were active in the country's commercial life. Economic and racial tension between the Chinese business community and the Basotho remained a problem. On July 4, demonstrators looted a few Chinese-owned shops during a demonstration against the Maseru City Council.

Section 6 Worker Rights

a. The Right of Association

Under the law, workers have the right to join and form trade unions without prior government authorization, and workers exercised this right in practice. The Labor Code prohibits civil servants from joining or forming unions; however, the law allows them to form staff associations. The Government regarded all civil servants as essential employees. Under the Labor Code, prepared with the assistance of the International Labor Organization (ILO), all

trade union federations must register with the Government. The Department of Labor found that only 11 of 43 registered trade unions were functioning, with a total membership was 19,729. Three of the four registered federations were functioning: The Lesotho Trade Union Congress, the Lesotho Federation of Democratic Unions, and the Lesotho Trade Union Congress. The labor and trade union movement was weak and fragmented. There were several small unions in the public and industrial sectors, but there was no unified trade union congress. There were cases of unions competitively organizing small numbers of workers in the same sector.

Overall unionized workers dropped from approximately 10 percent of the work force in 2002 to approximately 2 percent during the year. The reduction resulted in part from dissension between the Lesotho Clothing and Allied Workers Union (LECAWU) and the Factory Workers Union (FAWU); numerous workers subsequently disassociated themselves from both unions. Approximately 9 percent of the male labor force worked in the coal and gold mines of South Africa; the majority of those who did not were engaged primarily in traditional agriculture. A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM); while the NUM, as a foreign organization, was not allowed to engage in union activities in the country, it provided training, constructed agricultural projects, and performed other social services.

The law prohibits antiunion discrimination; however, there was credible evidence that some employers prevented union organizers from accessing factory premises to organize workers or represent them in disputes with owners or managers. Some employees were threatened with expulsion and loss of employment if they joined unions. There were reports that some employers harassed union organizers, intimidated members, and frequently fired union activists, particularly in domestic industries, such as guard forces; however, there were fewer such reports than in previous years. The Commission of Labor, which operated as part of the Labor Ministry, was charged with investigating allegations of labor law violations (see Section 6.e.).

There were no instances of governmental restrictions on international affiliations or contacts by unions or their members.

b. The Right to Organize and Bargain Collectively

The law provides for these rights, and the Government generally respected them in practice; however, some private sector employers tried to restrict them. There was credible evidence that most employers in the textile and garment sector used blacklists to deny employment to workers who had been fired by another employer within that sector.

The main textile union, LECAWU, and the Employers Association meet annually to negotiate wages independent of the minimum set by the Government. Internal divisions within LECAWU during the year resulted in the formation of a rival textile union, the FAWU. Employers generally honored employee decisions on union representation.

The law provides for the right to strike; however, civil servants were not allowed to strike, and all public sector industrial actions were by definition unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. Legal protection for strikers from retribution has not been enforced always in cases of illegal strikes.

On November 10, police fired into a crowd of demonstrators on strike, allegedly for marching on an unauthorized route; 2 persons were killed and more than 100 were injured. A police investigation was being conducted at year's end.

The Labor Code establishes a Directorate of Dispute Prevention and Resolution (DDPR) within the Ministry of Employment and Labor to provide speedy, independent, fair, and effective dispute prevention and resolution mechanisms; the Directorate was independent of government, and promptly handled cases during the year. The Labor Department also handled employee grievances, and there were no significant backlogs of cases during the year. The Industrial Peace, Advisory and Promotion Unit (IPAPU), within the DDPR, trained employers and employees in preventing and resolving workplace disputes. By December 2002, the IPAPU had conducted 19 training workshops in Maseru, Maputsoe, and Mafeteng, the 3 districts where the textile industry is located.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem in the informal sector. The legal minimum age for employment in commercial or industrial enterprises is 15 years, and the legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Many urban street children worked in the informal sector. Most jobs performed by children were gender-specific: Boys (as young as ages 4 and 5) were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution; and both boys and girls worked as street vendors.

There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions, and the Ministry of Labor and Employment's Inspectorate conducted quarterly inspections during the year. Children under 18 years of age may not be recruited for employment outside of the country. Child labor laws covered all sectors except for the agricultural sector. In traditional society, rigorous and occasionally dangerous working conditions for the country's young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

e. Acceptable Conditions of Work

A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity, consisting of Government, trade unions, and employers. The monthly minimum wage for unskilled laborers was \$80 (648 maloti) and \$140 (1,129 maloti) for heavy vehicle operators. Minimum wages for workers in lower skilled jobs were insufficient to ensure a decent standard of living for a worker and family. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives employed in South Africa. Many private employers paid more than minimum wages to attract and retain motivated employees; however, some employers reportedly treated the minimum wage as a maximum wage.

The Labor Code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek. Inspections by both buyer's representatives and the Labor Department have ensured that workers in the garment industry were paid the proper overtime rate for overtime hours worked.

The Labor Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The law provides for a compensation system for industrial injuries and diseases related to employment. The Labor Code also empowers the Minister of Labor to make regulations pertaining to work safety in specific areas, and there are regulations concerning welding and cutting, noise, and spray painting. The Labor Code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections on safety in the workplace and dismissal implied that such a dismissal would be illegal.

There were allegations in 2001 that some companies paid below minimum wage, enforced long hours sometimes by locking in workers, and deducted wages when employees were found talking or taking more than one break a day. Some employers, particularly small businesses, allegedly refused sick-pay leave and engaged in unfair dismissal practices. The majority of complaints dealing with these issues were brought to the DDPR, where they were resolved within weeks. Of the 2,261 cases brought before the DDPR in 2002, 2,177 involved overtime pay, underpayments, unlawful deductions, or failure to pay notice or severance pay. Only 10 percent of the complaints filed with the Directorate concerned the export-related textile sector.

The Labor Department also handled employee grievances, was staffed adequately, and handled most complaints within a 1-month period; it cooperated closely with the ILO in establishing inspection regimes. Labor inspectors generally conducted unannounced inspections in factories four times a year. The Labor Commission was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but it did not have the authority to impose criminal fines.

The Labor Code protects both legal and illegal foreign workers, unless the workers signed contracts that specified differently.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, and there were no reports of trafficking.

The Government and the local UNICEF office recognized that poverty and the high incidence of HIV/AIDS have led to a growing problem of child prostitution (see Section 5).